

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

WILLIAM GUY,

Plaintiff,

No. CIV S-03-1208 DFL CMK P

vs.

C. PILER, et al.,

Defendants.

ORDER VACATING FINDINGS &
RECOMMENDATIONS AND RESENDING
USM FORMS TO PLAINTIFF

Plaintiff is a state prisoner proceeding pro se and in forma pauperis with an action filed pursuant to 42 U.S.C. § 1983. Plaintiff filed his action in 2003, and has been less than diligent about prosecuting it. Most recently, on October 26, 2006, the court filed findings and recommendations recommending that this action be dismissed because plaintiff failed to return materials for service of defendants as ordered by the court. (Doc. 16.)

On November 27, 2006, plaintiff filed objections to the findings and recommendations. The objections indicate that plaintiff has significant psychological problems and requires the assistance of other inmates in preparing legal documents. Further, the objections state that the "USM-285 forms and other materials for service were filled out by Anthony Clark and handed over to prison officials in good faith to be mailed to the Court;

1 However, they were losted [sic] or misplaced and the Court never received them due to no fault
2 to [sic] plaintiff.” (Objs. (doc. 18) at 4:10-14.) Although plaintiff has failed to follow court
3 orders several times in the past, the court would credit a private attorney who offered a similar
4 explanation of lost service items. Accordingly, the court will vacate its October 26, 2006
5 findings and recommendations.

6 Plaintiff is warned, however, that his continued failure to comply with court
7 orders thwarts the public interest in expeditious resolution of litigation and burdens the court’s
8 efficient management of its docket. While the court is sympathetic to plaintiff’s problems,
9 plaintiff cannot continue to disregard court orders.

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1 In accordance with the above, IT IS HEREBY ORDERED that:

2 1. The findings and recommendations filed October 26, 2006 are vacated.

3 2. The court previously found that service was appropriate for the following
4 defendants: Dr. Borges, Douglas Peterson, J. Neves, and D.Kimbrell.

5 3. The Clerk of the Court shall send plaintiff four USM-285 forms, one
6 summons, an instruction sheet and a copy of the amended complaint filed July 3, 2006.

7 4. **Within thirty days from the date of this order**, plaintiff shall complete the
8 attached Notice of Submission of Documents and submit the following documents to the court:

9 a. The completed Notice of Submission of Documents;

10 b. One completed summons;

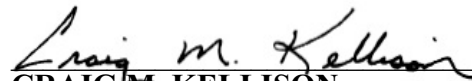
11 c. One completed USM-285 form for each defendant listed in number 2
12 above; and

13 d. five copies of the endorsed amended complaint filed July 3, 2006.

14 5. Plaintiff need not attempt service on defendants and need not request waiver of
15 service. Upon receipt of the above-described documents, the court will direct the United States
16 Marshal to serve the above-named defendants pursuant to Federal Rule of Civil Procedure 4
17 without payment of costs.

18 6. Plaintiff is warned that failure to comply with this order may result in the
19 dismissal of this action. See Local Rule 11-110.

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21 DATED: February 13, 2007.

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23 
24 **CRAIG M. KELLISON**
25 UNITED STATES MAGISTRATE JUDGE
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